

In the High Court of Travancore-Cochin

Before

Their Lordships The Hon'ble Mr. Justice K.S. Govinda Pillai and
The Hon'ble Mr. Justice K.A. Gangadhara Menon

A.S. 2 of 1951

O.S. 253 of 1124 (Execution) of the Quilon District Court

Appellant - defendant:-

✓ Said Mohammed Rowther, Navak Kanna Rowther residing near
Kuravampalam, Asramathucherry from Nedappalli Purayidom, Vada-
✓ Kumbhagatt Cherri, Quilon Pakuthi.

By Advocate Sri. T.K. Joseph

Respondent - Decree-holder:-

Ayyappan Sanku Panickar residing at Kottappurathu house,
from Ullirippil, Uliakkovil Cherri, Quilon Pakuthi.

By Advocate Sri. T.K. Narayana Pillai

This appeal suit having been heard on 16-2-1951, the court
on the same day delivered the following:-

Judgment

✓ The judgment-debtor is the appellant. He had filed D.R.P. 6
of 1950 before the District Court, Quilon under sec. 16 of the D.R.
Acts. That is now pending in the Second Judge's Court. A Receiver
✓ appointed by that court is now in possession of all his proper-
ties. The decree in question is pending execution before the
✓ District Judge at that station. When the properties came up for
sale, the judgment-debtor applied for stay of execution as he
had already filed the D.R. Act petition, till the disposal of
that petition or for four months to find out money to discharge
the debt. The lower court dismissed that petition by the order
appealed against.

✓ When the fact that the properties in question were in the
possession of a Receiver appointed by the Second Judge was
brought to the notice of the District Judge, who was executing
the decree against the appellant he should have directed for
obtaining the sanction of the Second Judge to proceed against
the properties. Till that is done he is not to sell the proper-
ties. The petition of the judgment-debtor should have been

allowed as indicated above. In this appeal we direct the execution court to proceed against the properties only after obtaining sanction of the Second Judge who had taken possession of the properties by appointing a Receiver. His refusal to stay the execution of the present decree in the D.R. Act proceedings will not in the circumstances of this case amount to the implied sanction to execute the decree ~~only~~ against the properties of the judgment-debtor when they are in the possession of his Receiver. The order of the lower court is set aside and this appeal allowed to the extent indicated above. We make no order as to costs.

Sd.K.S.Govinda Pillai, Judge

Sd.K.A.Gangadhar Menon, Judge

18-3-1951

(True copy)

*Comptroller
V. Ramakrishna*

Dy. Registrar for Registrar

A.S. 2/57.